

"BIAS-FREE"

PROFESSIONAL POLICING

POLICY

POLICY & PROCEDURE NO. 4.10.1	ISSUE 3/9/2021 DATE: _____
	EFFECTIVE 3/9/2021 DATE: _____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED: 1.2.9	REVISION DATE: _____3/9/2021_

I. GENERAL CONDITIONS AND GUIDELINES:

Zero Tolerance for Bias/Gender-Based Policing:

As duly sworn members of the Stow Police Department, we are unequivocally committed to protecting the constitutional and civil rights of all individuals located within our territorial jurisdiction and to those additional jurisdictions where we are allowed by statute, memorandum of understanding/agreement via mutual aid, case law or common law to execute sworn authority as Stow Police Officers. Any and all allegations of bias-based profiling in any form whatsoever or any other types of discriminatory enforcement practices, whether real or perceived, are detrimental to the valued relationships and partnerships that we have developed between the members of the Stow Police Department and the communities that we so faithfully serve and protect. Such discriminatory practices only function to erode the basic foundation of public trust and the spirit of cooperation that is essential to an effective community policing philosophy and formidable community building. Bias-based profiling is not only illegal, immoral and unethical, it is also a highly ineffective and counterproductive method of policing and law enforcement. Bias-based profiling results in increased safety risks to both officers and citizens alike and as such will not be tolerated under any set of circumstances.

Additionally, such improper methods violate the civil rights of the members of the general public and may lead to unnecessary and

increased exposure to civil liability and exposure for our department, personnel and municipality. As a result no member of this Department shall endorse, train, instruct, support or condone any type of stereotyping or bias-based profiling whatsoever.

Officers shall always adhere to the principles of ***Bias-Free Professional Policing*** as described and outlined below. While recognizing that the members of the Stow Police Department take a sworn oath to perform our duties and responsibilities in a professional, ethical, moral and impartial manner at all times, we shall stand ready and always remain committed to identifying, investigating and holding those accountable who may have occasion to violate or intentionally deviate from any of our existing rules, policies, practices or laws in this important area.

II. DEFINITIONS:

- 1.) ***"Bias-Based Profiling"***: Any prohibited pattern or practice, including but not limited to stopping, detaining, questioning, frisking, and searching by police officers, that is based upon a generalized belief that a person of a particular race, ethnicity, or national origin is more likely to commit certain types of crimes. This type of inappropriate reliance on certain characteristics such as race, ethnicity, national origin, religion, sex, sexual orientation, immigration status, gender identity or expression, socioeconomic status, age, professional level, cultural group, mental or physical disability or affiliation with any non-criminal group (e.g., protected characteristics) as the basis for providing differing law enforcement services or enforcement activity as outlined is **strictly prohibited**.
- 2.) ***"Bias-Free Policing"***:¹ policing decisions made by and conduct of law enforcement officers that **shall not consider** a person's race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level.
 - Note: This definition of Bias-Free Policing **shall also include and allow policing decisions** made by or conduct of law enforcement officers that:
 - (1) are **based on a law enforcement purpose or reason which is non-discriminatory, or which justifies different treatment;** or

• ¹ See MGL Chapter 6E Section 1 / Chapter 6 Section 116G

- (2) consider a person's race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level **because such factors are an element of a crime(s) under investigation.**
- 3.) **"Suspect Specific Incident"**: An incident in which an officer is lawfully attempting to detain, apprehend, or otherwise be on the lookout (e.g., BOLO) for one or more specific suspects who have been identified and/or particularly described in part by national or ethnic origin, gender, age or race.
- 4.) **POST**: The **Massachusetts Peace Officer Standards and Training Commission** consisting of nine (9) members vested with various powers to oversee police training and allegations of misconduct including, but not limited to, conduct involving allegations of bias.

III. PURPOSE AND SCOPE

This policy provides specific guidance and direction to all Department members (including sworn and non-sworn) that affirms the Stow Police Department's continuing commitment to Constitutional Policing principles and practices that are always fair, impartial, objective, and fosters mutual respect, dignity and a spirit of cooperation between law enforcement personnel and members of all racial, identity, and cultural groups.

Outreach Note: Nothing in this policy prohibits the use of specified characteristics in law enforcement activities designed to strengthen the Department's relationship with its diverse communities. The members of the Department shall always emphasize an understanding, appreciation and respect for racial identity, and cultural differences (e.g., cultural and ethnicity awareness training, youth programs, community group outreach, partnerships).

IV. POLICY:

It shall be the policy of this Department to adhere to the principles of Bias-Free Professional Policing while always recognizing that any and all bias-based profiling is and shall be **strictly prohibited**. Except in "**suspect specific incidents**," (as defined in Section II (3) above) all Stow Police Officers and employees are **strictly prohibited** from considering the race,

ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, immigration status, disability or any other arbitrary characteristic of members of the public when deciding to detain a person during a traffic stop or an investigative detention (e.g., field interview observations); or in deciding upon the scope or substance of any law enforcement action. The Stow Police Department is committed to providing effective law enforcement services to the entire community with due regard for all racial, cultural, ethnic or other protected characteristics of those served. It shall be the policy of this Department to enforce the law equally, fairly, impartially, objectively and without discrimination toward any particular individual or group. [1.2.9 \(a\)](#)

Investigatory Note: Nothing in this policy is intended to prohibit or restrict an Officer's ability to consider certain protected characteristics in combination with other credible, timely and distinct information connecting a person or a group of individuals of a specific characteristic to a specific unlawful incident(s), specific criminal patterns or a specific illegal scheme(s).

V. MEMBER RESPONSIBILITIES:

In furtherance of this policy all members of the Stow Police Department shall:

- Perform his/her duties in a fair, impartial and objective manner and is responsible for promptly reporting any suspected or known instances of bias-based profiling to a supervisor. Members should always, when reasonable and practicable to do so, intervene to prevent any biased-based actions by another member of this Department, other law enforcement agency or in general;
- Provide all individuals within this community with fair and impartial policing services consistent within all constitutional and statutory mandates;
- Assure the highest standard of integrity and ethics among all our Officers in all interactions with the public;
- Always respect the diversity and the cultural values of all people;
- Take affirmative and positive steps to identify, prevent, and eliminate any instances of bias-based profiling by Stow Police Department Officers and employees;

- Continue the valued commitment to a community policing philosophy and problem solving techniques (e.g., **Scanning, Analyzing, Response, Assessment**), including probative, lawful and nondiscriminatory traffic enforcement that promotes public safety and strengthens public trust, confidence, and traffic safety awareness;
- Officers who have occasion to contact a person in the course of their duties and responsibilities shall be prepared to articulate sufficient reason(s) for the contact, independent of the protected characteristics of the individual;
- To the extent that written documentation would otherwise be completed (e.g., arrest report, citation, 21D By Law, parking ticket), the involved Officer should include those facts giving rise to the contact, as applicable;
 - **Note:** Except for required data-collection forms or methods, nothing in this policy shall require any Officer to document a contact that would not otherwise require reporting in accordance with existing law.

VI. PROCEDURES:

A. Prevention of Bias-Based-Profiling via Training 1.2.9 (b)

To prevent any occurrences of bias-based profiling, members of this Department shall always:

1. Utilize the Municipal Police Training Committee (MPTC) Basic Recruit Academy and any Department sponsored in-service training programs to help ensure that all employees receive the requisite training on the legal aspects of identification and prevention against any bias-based profiling practices and the mandatory standards as established by this policy. **1.2.9 (b)**
2. Ensure that this policy is properly disseminated to all employees, sworn Officers, and emergency communications employees;
3. Ensure that all Supervisors will continually monitor employee conduct to guarantee that the standards of this policy are being carried out in a continuous manner by all personnel under their supervision;

4. Conduct a documented review by the Lieutenant, when and where appropriate, to revise procedures that involve the stop, detention, apprehension or search and seizure of individuals or their property to ensure that such procedures are in compliance with the provisions of the law of the Commonwealth and this policy;
5. Conduct a documented Annual Administrative Review by the Lieutenant of all performance recognition and evaluation systems, training curricula, policies, citizen complaints or concerns and customs of the Department to determine if any practice encourages conduct that may support or lead to bias-based profiling. This documented review shall be sent to the attention of the Chief of Police for appropriate follow up if necessary. **1.2.9 (d)**

B. *Identification of Bias-Based Profiling:*

To assist in identifying instances or allegations of bias-based profiling, this department shall:

1. Utilize appropriate civilian complaint procedures to document and investigate allegations of bias-based profiling filed directly with the agency, referred through the Executive Office of Public Safety's statewide toll free complaint number or made directly to the POST Commission.
2. Utilize procedures for the proactive review of performance, complaint and other employment information to assist supervisors in identifying and modifying potentially problematic behavior and to promote professionalism in this department.
3. Utilize procedures to identify patterns of unprofessional police conduct, including, but not limited to, patterns of conduct that is biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level;²
4. Any civilian complaints of bias-based policing, including whether the Officer's conduct was allegedly biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level, shall be reported to the **POST Commission's Division of Police Standards** by the Lieutenant or Chief of Police **within two (2) days** of receiving stated complaint.³

• ² See MGL Chapter 6E Section 3 (Powers of POST)

• ³ See MGL Chapter 6E Section 8 (b)(1) (Division of Police Standards)

5. The **POST Commission's Division of Police Standards** shall create and maintain a comprehensive database containing information related to an Officer's receipt of complaints and related information, including, but not limited to the officer's appointing agency, date, a description of circumstances of the conduct that is the subject of the complaint and whether the complaint alleges that the officer's conduct was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level.⁴
6. The **POST Commission** *may*, after a hearing, **suspend or revoke** an Officer's **Certification** if the Commission finds by the legal standard of **clear and convincing evidence** that the officer was biased on the basis of race, ethnicity, sex, gender identity, sexual orientation, religion, mental or physical disability, immigration status or socioeconomic or professional level in their conduct.

C. Enforcement of Bias-Based Profiling Policy: 1.2.9 c

To enforce the provisions of this policy, this Department shall:

1. Take the appropriate actions to address documented incidents or allegations of bias-based profiling;
2. Utilize a system and approach of early intervention to enable and encourage an employee to undertake a voluntary modification of his or her conduct or performance; and
3. Take the appropriate measures to correct any institutional practice, pattern or policy that has led to the utilization of any bias-based profiling practice.

D. Civil Liability [Legal Statutory Right to Bias-Free Policing]:

- 1.) All persons shall have the legal right to **Bias-Free Professional Policing** as defined in this policy in Section (2) and as outlined in MGL Chapter 6E Section 1.
 - Any conduct taken in relation to an aggrieved person by a law enforcement officer acting under color of law that results in the **Decertification** of said law enforcement officer by the **POST Commission** pursuant to MGL Chapter 6E Section 10 shall

• ⁴ See MGL Chapter 6E Section 8 (e) (Division of Police Standards Database]

constitute interference with said person's right to bias-free professional policing and shall be a prima facie violation of said person's right to bias-free professional policing and a prima facie violation of subsection (a).⁵

- No law enforcement officer shall be immune from civil liability for any conduct under color of law that violates a person's right to bias-free professional policing if said conduct results in the law enforcement officer's decertification by the POST Commission pursuant to MGL Chapter 6E Section 10;
 - Provided, however, that nothing noted herein shall be construed to grant immunity from civil liability to a law enforcement officer for interference by threat, intimidation or coercion, or attempted interference by threats, intimidation or coercion, with the exercise or enjoyment any right secured by the constitution or laws of the United States or the constitution or laws of the Commonwealth if the conduct of said officer was knowingly unlawful or was not objectively reasonable.

2.) Pursuant to Section 83 of the newly enacted Police Reform Legislation [**An Act Relative to Justice, Equity, and Accountability in Law Enforcement in the Commonwealth**], Section 63 of Chapter 90 of the MGLs, inserted by section 10 of Chapter 122 of the Acts of 2019, is

⁵ See Chapter 12 Section 11H (a)(1):

"Whenever any person or persons, whether or not acting **under color of law**, interfere by *threats, intimidation or coercion*, or attempt to interfere by threats, intimidation or coercion, with the exercise or enjoyment by any other person or persons of rights secured by the constitution or laws of the United States, or of rights secured by the constitution or laws of the commonwealth, the **Attorney General may bring a civil action** for injunctive or other appropriate equitable relief in order to protect the peaceable exercise or enjoyment of the right or rights secured. Said civil action shall be brought in the name of the commonwealth and shall be instituted either in the superior court for the county in which the conduct complained of occurred or in the superior court for the county in which the person whose conduct complained of resides or has his principal place of business. (Emphasis added)

Section 11H (a)(2): If the Attorney General prevails in an action under this section, the Attorney General shall be entitled to: (i) an award of **compensatory damages** for any aggrieved person or entity; and (ii) **litigation costs and reasonable attorneys' fees** in an amount to be determined by the court. In a matter involving the interference or attempted interference with any right protected by the constitution of the United States or of the commonwealth, the court may also award civil penalties against each defendant in an amount not exceeding \$5,000 for each violation.

hereby amended by adding the following subsection: to the so-called “Hands Free / Data Collection Law”.

(h) A law enforcement agency, as defined in MGL Chapter 6E Section 1, **shall not** engage in racial or other profiling. The Attorney General may bring a civil action in the superior court for injunctive or other equitable relief to enforce this subsection. For the purposes of this subsection, “**racial or other profiling**” shall mean differential treatment by a law enforcement officer based on actual or perceived race, color, ethnicity, national origin, immigration or citizenship status, religion, gender, gender identity or sexual orientation in conducting a law enforcement action, whether intentional or evidenced by statistically-significant data showing disparate treatment;

- Provided, however, that “**racial or other profiling**” shall not include the use of such characteristics, in combination with other factors, to apprehend a specific suspect based on a description that is individualized, timely and reliable.⁶

3.) The **POST Commission** shall have the power to refer patterns of **racial profiling** or the mishandling of complaints of unprofessional police conduct by a law enforcement agency for investigation and possible prosecution to the Attorney General or the appropriate federal, state or local authorities;

- Provided, however, that if the Attorney General has reasonable cause to believe that such a pattern exists based on information received from any other source, the Attorney General may bring a civil action for injunctive or other appropriate equitable and declaratory relief to eliminate the pattern or practice.⁷

VII. SUPERVISOR RESPONSIBILITIES:

- Supervisors should monitor those individuals under their command for compliance with this policy and shall handle any alleged or observed violations in accordance with the steps outlined in the Internal Affairs Investigation Policy.

• ⁶ See MGL Chapter 90 Section 10

• ⁷ See MGL Chapter 6E Section 3

- Supervisors shall always discuss any concerns with the involved Officer face to face - in private whenever possible - in a timely manner.
- Supervisors shall initiate investigations of any actual or alleged violations of this policy.
- Supervisors shall take prompt and reasonable steps to address any retaliatory action that may be taken against any member of this Department who discloses information concerning any bias-based policing practice by another member.

VIII. TRAINING:

- The **Municipal Police Training Committee (MPTC)**, in consultation with the Executive Office of Public Safety and Security (EOPSS), shall establish and develop an **In-Service Training Program** designed to train local law enforcement officials in practices and procedures related to **Bias-Free Policing** which shall include **examining attitudes and stereotypes that affect the actions and decisions of law enforcement officers**;⁸
- Training on fair and impartial policing and review of this policy should be conducted at periodic intervals as directed by the Professional Standards Division during In-Service Training and Roll Call Training Sessions.
- All sworn members of this Department shall attend training on the subject of Bias-Free Professional Policing at the MPTC ROC and at applicable intervals at Department In-Service Training.
- All *Stow School Resource Officers* (SROs) shall be trained in **anti-bias, anti-racism and anti-harassment strategies**.⁹
- All members of this Department are encouraged to familiarize themselves with and consider racial and cultural differences among members of this community.

• ⁸ See MGL Chapter 6 Section 116G (b)

• ⁹ See MGL Chapter 6 Section 116H

- Each sworn member of this Department who received initial bias-based policing training will thereafter be required to complete an approved refresher course three (3) years, or sooner if deemed necessary, in order to keep current with changing racial, identity and cultural trends.